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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6**

**REGIONAL HEARING CLERK
EPA REGION VI**

IN THE MATTER OF:
BRINE SERVICE COMPANY, INC.
SUPERFUND SITE;
CORPUS CHRISTI, NUECES COUNTY,
TEXAS

Anadarko E&P Company LP
ConocoPhillips Company
EI Paso Merchant Energy-Petroleum
Company
Hess Corporation
Sunoco, Inc. (R&M)
Texaco, Inc.

Respondents

ADMINISTRATIVE ORDER ON
CONSENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY

U.S. EPA Region 6
CERCLA Docket No. 06-09-04

Proceeding Under Sections 104, 107 and
122 of the Comprehensive Environmental
Response, Compensation, and Liability Act,
as amended, 42 U.S.C. §§9604, 9607 and
9622.

**ADMINISTRATIVE ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION AND FEASIBILITY STUDY**

TABLE OF CONTENTS

I. JURISDICTION AND GENERAL PROVISIONS	1
II. PARTIES BOUND	2
III. STATEMENT OF PURPOSE	2
IV. DEFINITIONS	3
V. FINDINGS OF FACT	6
VI. CONCLUSIONS OF LAW AND DETERMINATIONS	11
VII. ORDER	12
VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS	12
IX. WORK TO BE PERFORMED	13
X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS	22
XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION	24
XII. SITE ACCESS AND INSTITUTIONAL CONTROLS	25
XIII. COMPLIANCE WITH OTHER LAWS	26
XIV. RETENTION OF RECORDS	26
XV. DISPUTE RESOLUTION	27
XVI. STIPULATED PENALTIES	27
XVII. FORCE MAJEURE	30
XVIII. PAYMENT OF RESPONSE COSTS	31
XIX. COVENANT NOT TO SUE BY EPA	33
XX. RESERVATIONS OF RIGHTS BY EPA	33

XXI. COVENANT NOT TO SUE BY RESPONDENTS	34
XXII. OTHER CLAIMS	34
XXIII. CONTRIBUTION PROTECTION	35
XXIV. INDEMNIFICATION	35
XXV. INSURANCE	35
XXVI. FINANCIAL ASSURANCE	36
XXVII. INTEGRATION/APPENDICES	37
XXVIII. ADMINISTRATIVE RECORD	37
XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION	38
XXX. NOTICE OF COMPLETION OF WORK	38

Appendices

Appendix

- A - Statement of Work, Remedial Investigation and Feasibility Study
- B—Site Map

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Respondents

**ADMINISTRATIVE ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION AND FEASIBILITY STUDY**

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order on Consent (Order) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and Anadarko E&P Company LP; ConocoPhillips Company; El Paso Merchant Energy-Petroleum Company; Hess Corporation; Sunoco, Inc. (R&M); Texaco, Inc.; and hereinafter the "Respondents." The Order concerns the preparation and performance of a Remedial Investigation and Feasibility Study (RI/FS) at the Brine Service Company, Inc. Superfund Site (hereinafter the "Site"); located approximately 6.5 miles west of downtown Corpus Christi, Texas; and the reimbursement for future response costs incurred by the EPA in connection with the RI/FS.

2. This Order is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§9604, 9607 and 9622 (CERCLA). This authority was delegated to the Administrator of the EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (January 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further redelegated by the Regional Administrator of EPA Region 6 to the Director of the Superfund Division, by EPA Delegation No. R6-14-2 (March 21, 2002).

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), the EPA notified the U.S. Department of Interior, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality on September 1, 2004, of negotiations with potentially responsible parties regarding the release of

hazardous substances that may have resulted in injury to the natural resources under Federal and/or State trusteeship.

4. The EPA and Respondents recognize that this Order has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Order do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Order. Respondents agree to comply with and be bound by the terms of this Order and further agree that they will not contest the basis or validity of this Order or its terms.

II. PARTIES BOUND

5. This Order applies to and is binding upon the EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order.

6. Respondents are jointly and severally liable for carrying out all activities required by this Order. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Order, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondents shall be responsible for any noncompliance with this Order.

8. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to execute and legally bind Respondents to this Order.

III. STATEMENT OF PURPOSE

9. In entering into this Order, the objectives of the EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a Remedial Investigation as more specifically set forth in the Statement of Work (SOW) attached as Appendix A (Statement of Work, Remedial Investigation and Feasibility Study) to this Order, (b) to identify and evaluate remedial alternatives to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Feasibility Study as more specifically set forth in the SOW in Appendix A to this Order, and (c) to recover future response and oversight costs incurred by the EPA with respect to this Order.

10. The Work as defined by and conducted under this Order is subject to approval by the EPA and shall provide all appropriate and necessary information to assess Site conditions in the RI/FS Study area and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 (NCP). Respondents shall conduct all Work as defined and conducted under this Order in compliance with CERCLA, the NCP, and all applicable EPA guidances, policies, and procedures.

IV. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§9601, *et seq.*
- b. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- c. "Effective Date" shall be the effective date of this Order as provided in Section XXIX.
- d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.
- e. "Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.
- f. "Facility" shall mean (a) any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container or (b) any "site" or "area" where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located. The facility includes the source or sources of contamination and any area where a hazardous substance release has come to be located.
- g. "Future response costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Order, verifying the Work, or otherwise implementing, overseeing, or enforcing this Order, including but not limited to, payroll costs, contractor costs (for technical assistance), travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry (ATSDR) costs, the costs incurred pursuant to Paragraph 54 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), and Paragraph 40 (emergency response), and Paragraph 84 (Work takeover).
- h. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for

human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

- i. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. §9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.
- j. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, codified at 40 C.F.R. Part 300, and any amendments thereto.
- k. "Order" shall mean this Administrative Order on Consent, the SOW, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Order upon approval by EPA. In the event of conflict between this Order and any appendix or other incorporated documents, this Order shall control.
- l. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral. References to paragraphs in the SOW will be so identified (e.g., SOW Paragraph 15).
- m. "Parties" shall mean the EPA and Respondents.
- n. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through December 31, 2008, plus interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date.
- o. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§6901, *et seq.*
- p. "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.
- q. "Respondents" shall mean Anadarko E&P Company LP; ConocoPhillips Company; El Paso Merchant Energy-Petroleum Company; Hess Corporation; Sunoco Inc. (R&M); and Texaco, Inc.
- r. "Section" shall mean a portion of this Order identified by a Roman numeral.

- s. "Site" shall mean the Brine Service Company, Inc. Superfund Site, encompassing approximately 16.26 acres, located on the northeast corner of the intersection of I-37 and Goldston Road, approximately 6.5 miles west of downtown Corpus Christi, Texas (Nueces County), and depicted generally on the map attached as Appendix B (Site Map).

The EPA uses the term "site" in referring to a "release" or "facility" on the National Priorities List. The term "site" is meant to be synonymous with "release" or "facility" and is not meant to suggest that the listing is geographically defined. The facility includes the source or sources of contamination and any area where a hazardous substance release has come to be located.

For the purposes of this Order, RI/FS study area shall include only the area located to the south of Up River Road, and that portion of the Surface Water Drainage Ditch (SWDD) as it extends under Up River Road into the Tule Lake fringe area, up to the point of its confluence with the Northeast Draining ditch (the "X" on Appendix B). Portions of the Brine Service Superfund Site once hosted buried impoundments. The types of Contaminants of Potential Concern (COPCs) that shall be investigated include organics and inorganics. The media to be investigated include soils, ground water, surface water, air, and sediments. The known and suspected routes of migration to be considered during the RI/FS activity include overland flow (identified in the Hazard Ranking System Documentation Record), subsurface migration of CPCs from the buried impoundments to surface/sub-surface soils and ground water, and the possible migration to the sediments and surface waters of the SWDD located to the south and just north of Up River Road.

- t. "State" shall mean the State of Texas.
- u. "Statement of Work" or "SOW" shall mean the Statement of Work for development of an RI/FS for the Brine Services Company, Inc. Superfund Site as set forth in Appendix A (Statement of Work, Remedial Investigation and Feasibility Study) to this Order. The Statement of Work is incorporated into this Order and is an enforceable part of this Order as are any modifications made thereto in accordance with this Order.
- v. "TCEQ" shall mean the State of Texas agency, the Texas Commission on Environmental Quality.
- w. "TNRCC" shall mean the Texas Natural Resource Conservation Commission.
- x. "Waste material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. §9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. §9601(33); and (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. §6903(27).

- y. "Work" shall mean all activities Respondents are required to perform under this Order, except those required by Section XIV (Retention of Records).

V. FINDINGS OF FACT

12. The Site is located approximately 6.5 miles west from downtown Corpus Christi along the north side of IH-37 and east-northeast of the intersection at Goldston Road (Appendix B - Site Map). Corpus Christi is situated along the southern Gulf Coast of Texas. The Site is located in the Nueces-Rio Grande Coastal Basin and lies approximately 25 feet above sea level. The geodetic coordinates of the Site are 27°48'55.34 " north latitude and 97°30'30.98 " west longitude.

The Site is comprised of former waste disposal pits (north and south pits) located on property formerly owned and operated by Brine Service Company. A portion of the pit area reportedly received oil field wastes, such as drilling fluids, and/or refinery wastes from as early as 1946 through the 1960s. The Site was discovered in November 1997 when a trench was being excavated through a portion of the former Brine Service Company property to install interconnecting pipelines between two nearby refineries. The TNRCC documented that the bottom and sides of the trench were visibly stained and that ground water seeping into the excavation had a hydrocarbon sheen. Samples of the excavated soil had benzene concentrations as high as 79 milligrams per kilogram (mg/kg). Subsequent sampling of the pit area revealed the presence of metals, including barium, cadmium, chromium, lead, and mercury, as well as several organic compounds.

Surface water drainage from the Site enters a drainage ditch located along the east side of the property. The ditch travels north approximately 1/2 mile and empties into a wetland area known as Tule Lake. Tule Lake is a brackish shallow water wetland area and is a Texas Parks and Wildlife sanctuary containing gulls, pelicans, and other aquatic birds. Tule Lake is also a habitat for several State-Listed Threatened Species. Tule Lake flows into Corpus Christi Inner Harbor, which in turn flows into Corpus Christi Bay. Corpus Christi Bay is an estuarine subtidal area and has been nominated into the National Estuary Bay Program. The bay is used for recreational and commercial fishing.

Land use surrounding the Site is commercial/industrial. The Nueces Occupational Medical Clinic is located to the north of the property. Three petrochemical refineries; Citgo, Valero, and Flint Hills are approximately 1/2 mile east, 1 mile east, and 1 mile northwest of the Site, respectively.

Surface water downstream of the Site is saline and therefore not used for drinking. There are no domestic or public water supply wells within 1 mile of the Site.

The nearest residential area is approximately 0.4 miles west-southwest of the Site. Because of the industrial nature of this area, additional residential development is improbable. The 1990 U.S. Bureau of Census data reports 27 housing units and 71 residents within a 1/2-mile radius of the Site.

13. The legal description of the Site is "Lots 2 - 8, Block 1, Goldston Addition." The earliest industrial use was a right-of-way easement granted in 1940 to Houston Gulf Gas Company to construct a pipe line across part of the Site. In 1955-57 the Goldston Company, Inc., (Goldston) was the grantee of some 12 acres of the Site. Goldston was a general construction and heavy equipment company which began operation in 1955 on Lot 8. James Goldston is the

president of Boomerang Corporation, the current owner of Lots 2-5 and 8. Brine Service Company (BSC) obtained a 1.81 acre tract in 1957. BSC was a previous owner of all, or portions, of the south pit area located on certain lots of the Site. Mr. Henderson is the President of BSC.

In 1999, TNRCC notified Boomerang Corporation that they had been identified as a PRP at the Site. Goldston Construction began operations in 1955 on Lot 8 and additional property was subsequently acquired. Occupants of this property up to 1986 were subsidiaries of Goldston Corporation. The facility was not operated after 1985 and it was closed in 1998. James M. Goldston is the principal of both Boomerang and Goldston.

Prior to its use for waste disposal, the BSC property was quarried for sand and caliche. From the 1940s through the 1960s oil field (e.g., drilling fluids) and refinery waste were disposed of at the south pit. There is no documentation that the north pit received wastes; however, it might have received runoff from the south pit. The south pit was backfilled in the early 1970s. The north pit was backfilled between 1961 and 1968. There is no documentation that either of these pits were lined.

14. The following hazardous substances were encountered during the 1997 pipeline trench excavations at the Site: barium, cadmium, chromium, lead, mercury, fluorene, 2-methylnaphthalene, naphthalene, phenanthrene, benzene, ethylbenzene, toluene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, xylenes, 2,4-dimethylphenol, acenaphthene, 2-methylphenol (o-cresol), 3&4 methylphenol (m&p cresol), and phenol. Total benzene levels were documented as high as 79,000 micrograms per kilogram. Toxicity Characteristic Leaching Procedure benzene levels ranged from 250 micrograms/liter ($\mu\text{g/L}$) to 1,700 $\mu\text{g/L}$. Total petroleum hydrocarbon levels were detected as high as 52,000 milligrams/kilogram.

Subsequent sampling in February 2000, conducted by the TNRCC (now the Texas Commission on Environmental Quality), confirmed the presence of metals and organic compounds in the north and south pit areas and in Tule Lake.

The volumes of wastes currently present at the Site have not been determined. This information will be obtained during the Remedial Investigation and Feasibility Study currently being planned for the Site.

15. Based on the currently available data (future data may indicate additional contaminants and pathways), the contaminant pathway of concern at the Site is surface water. The wastes buried in the former pits are the expected sources of contamination. Two buried surface impoundments comprise the former waste disposal pit area or areas that were reported to have received oil field wastes/drilling fluids and/or refinery wastes. Aerial photographs show that pit excavations began at the Site prior to 1956 and contained liquid until filled in the early 1970s. Observations of the aerial photographs indicated the presence of two pit areas, a south pit area located at the northeast intersection of Goldston Road and IH-37 and a north pit area located immediately north of the south pit. The south pit area, as seen in a 1960 aerial photograph, revealed a suspicious dark mottled appearance of the liquid in the pit, which may be an indication of floating hydrocarbons. The north pit area was backfilled sometime between 1962 and 1965. The south pit area was completely filled in by late 1973.

During the week of February 14-17, 2000, the TNRCC's Superfund Site Discovery and Assessment Program conducted sampling activities at the Site as part of a screening site inspection (SSI, "Screening Site Inspection Report [October 2000]"). The purpose of this investigation was to document the release(s) or potential release(s) of hazardous substances from

the Site. All of the source samples collected during this sampling event were analyzed for Organic Target Compound List (TCL) and Inorganic Target Analyte List (TAL) constituents. The analytical results documented organic and inorganic concentrations greater than or equal to the background sample(s), or sample quantitation limits if not found in background.

The SSI Report states that, "The hazardous substance mercury was found in the Tule Lake wetland area sediment samples, qualifying as observed releases, can be attributed to Source 1 [pit area] at the Brine Service Company Site." On November 3, 1997, Koch Pipeline Company (Koch) representative notified TNRCC Region 14 staff of an apparent former waste disposal site. Koch reported that during pipeline excavations through the subject site, approximately 3,000 cubic yards of contaminated soil was excavated for the installation of new pipelines. Observations of the excavation area reported by a TNRCC inspector revealed that the floor and walls of the excavation were visibly stained with hydrocarbons. Laboratory analyses results received from Koch for soil samples collected from the excavated materials at the Site indicated elevated levels of total petroleum hydrocarbons, total metals, and volatile and semi-volatile organic compounds. Total mercury levels were found in all of the waste characterization samples collected. Mercury levels ranged from 0.50 to 10.7 mg/kg which were significantly above background.

16. A Baseline Human Health Risk Assessment, which estimates the current and possible future risks if no action were taken to clean up the Site, will be performed and will determine the populations at risk. An Ecological Risk Assessment will also be performed to evaluate the likelihood that adverse ecological effects are occurring or may occur as a result of exposure to one or more stressors.

17. Following are the health/environmental effects of one of the major contaminants at the Site:

- a. Mercury - The nervous system is very sensitive to mercury. Different forms of mercury have different effects on the nervous system, because they do not all move through the body in the same way. When metallic mercury vapors are inhaled, they readily enter the bloodstream and are carried throughout the body and can move into the brain. Breathing in or swallowing large amounts of methylmercury also results in some of the mercury moving into the brain and affecting the nervous system. The kidneys are also sensitive to the effects of mercury, because mercury accumulates in the kidneys and causes higher exposures to these tissues, and thus more damage. All forms of mercury can cause kidney damage if large enough amounts enter the body.

In critical periods of development before they are born, and in the early months after birth, children and fetuses are particularly sensitive to the harmful effects of metallic mercury and methylmercury on the nervous system. Harmful developmental effects may occur when a pregnant woman is exposed to metallic mercury and some of the mercury is transferred into her developing child. As with mercury vapors, exposure to methylmercury is more dangerous for young children than for adults, because more methylmercury easily passes into the developing brain of young children and may interfere with the development process. In cases in which the exposure was very small some effects might not be apparent, such as small decreases in IQ or effects on the brain that may only be

determined by the use of very sensitive neuropsychological testing. In instances in which the exposure is great, the effects may be more serious. In some such cases of mercury exposure involving serious exposure to the developing fetus, the effects are delayed. In such cases, the infant may be born apparently normal, but later show effects that may range from the infant being slower to reach developmental milestones, such as the age of first walking and talking, to more severe effects including brain damage with mental retardation, incoordination, and inability to move. Other severe effects observed in children whose mothers were exposed to very toxic levels of mercury during pregnancy include eventual blindness, involuntary muscle contractions and seizures, muscle weakness, and inability to speak.

Some people may be exposed to higher levels of mercury in the form of methylmercury if they have a diet high in fish or shellfish that come from mercury-contaminated waters. A main source of exposure to methylmercury for the pregnant woman and the young child is from eating fish. Mercury can enter and accumulate in the food chain. The form of mercury that accumulates in the food chain is methylmercury. Inorganic mercury does not accumulate up the food chain to any extent. When small fish eat the methylmercury in food, it goes into their tissues. When larger fish eat smaller fish or other organisms that contain methylmercury, most of the methylmercury originally present in the small fish will then be stored in the bodies of the larger fish. As a result, the larger and older fish living in contaminated waters build up the highest amounts of methylmercury in their bodies. The toxicological effects of mercury to aquatic organisms include neurological damage, reproductive impairment, growth inhibition, developmental abnormalities, and altered behavioral responses.

18. The "Final Rule" adding the Site to the National Priorities List was published in the Federal Register (Vol. 67, No. 172), pursuant to CERCLA Section 105, 42 U.S.C. §9605, on September 5, 2002.

19. The following PRPs have been identified through deed and title records; aerial photographs; past insurance documents; special notice responses; a past hazardous site notification form (confirmed by affidavit); and corroborating testimonies (oath) and interviews given by past Brine Services employees:

Anadarko E&P Company LP a Delaware corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

Boomerang Corporation, a Texas corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

Brine Service Company, Inc. is a previous owner of record of an approximate 1.81 acre parcel of land, more or less, known as the Brine Service Co. tract (which is part of the Site).

John Allaire Coil is a previous owner of record when hazardous waste disposals were made at the parcel of land known as the Brine Service Co. tract when hazardous waste disposals were made at the site.

John Deric and Caitlyn O. Coil 1995 Irrevocable Trust (Katherine Dagnino, Trustee) is a previous owner of record of a parcel of land known as the Brine Service Co. tract when hazardous waste disposals were made at the site.

ConocoPhillips Company, a Delaware corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

El Paso Merchant Energy-Petroleum Company, a Delaware corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

James M. Goldston is a previous owner of record when hazardous waste disposals were made at the parcel of land known as the Brine Service Co. site.

Robert C. Henderson is a previous owner of record of an approximate 1.81 acre parcel of land, more or less, known as the Brine Service Co., when hazardous waste disposals were made at the site.

Hess Corporation, a New York corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

Charles J. Phelps is a previous owner of record when hazardous disposals were made at parcel of land known as the Brine Service Co. site.

Robert R. Sanchez is a previous owner of record when hazardous disposals were made at parcel of land known as the Brine Service Co. site.

Southwestern Refining Company, Inc., an Arizona corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

Sunoco, Inc. (R&M), a Pennsylvania corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

Texaco, Inc., a Delaware corporation, has been identified as a generator of hazardous wastes found at the Site. It has been reported that Brine Service Company trucks transported wastes to be disposed of at the Site and could also be liable as a transporter.

20. During the week of February 14-17, 2000, the TNRCC's Superfund Site Discovery and Assessment Program conducted sampling activities at the Site as part of a screening site inspection (SSI, "Screening Site Inspection Report" [October 2000]). The purpose of this investigation was to document the release(s) or potential release(s) of hazardous substances from the Site. All of the source samples collected during this sampling event were analyzed for

organic TCL and inorganic TAL constituents. The analytical results documented organic and inorganic concentrations greater than or equal to the background sample(s), or sample quantitation limits if not found in background.

The EPA issued General Notice Letters (GNLs) to several PRPs on June 4, 2002. The GNLs notified the PRPs of their potential liability that they may incur or may have incurred with respect to the Site. The GNLs also notified the PRPs of the potential response activities at the Site which they may be asked to perform or finance at a later date.

The EPA issued 104(e) Information Request Letters to several PRPs on June 4, 2002, to learn more about the Site. The EPA issued additional 104(e) Information Request Letters to other entities (not identified as a PRP) on July 5, 2002. The EPA has evaluated the responses received from the PRP and other entities.

The EPA issued Special Notice Letters (SNLs) to several PRPs on May 27, 2005. The SNLs notified the PRPs that they may be responsible for the cleanup of hazardous substances at the Site, asks the PRPs to pay the EPA for costs it has incurred at the Site, informed the PRPs that the EPA will use Special Notice procedures when it works with them, asked the PRPs to send the EPA a good-faith offer within 60 days from the day they receive this notice, and pointed out that it would help the PRPs and the EPA if they would consult with other PRPs who may be responsible for the cleanup.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, the EPA has determined that:

21. The Brine Service Company, Inc. Superfund Site is a "facility" as defined in Section 101(9) of CERCLA, 40 U.S.C. § 9601(9).

22. The contamination found at the Site, as identified in the Findings of Fact above, included "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

23. The conditions described in the Findings of Fact above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101 (22) of CERCLA, 42 U.S.C. § 9601(22).

24. Each Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

25. Respondents are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622. Each Respondent is a person who either generated the hazardous substances found at the Site, is a person who at the time of disposal of any hazardous substances owned or operated the Site, or is a person who arranged for disposal or transport for disposal of hazardous substances at the Site.

26. The actions required by this Order are necessary to protect the public health, welfare or the environment; are in the public interest, 42 U.S.C. § 9622(a); are consistent with CERCLA and the NCP, 42 U.S.C §§ 9604(a)(1), 9622(a); and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

27. The EPA has determined that Respondents are qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Order.

VII. ORDER

28. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Order, including, but not limited to, all appendices to this Order and all documents incorporated by reference into this Order.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

29. Selection of Contractors, Personnel. All Work performed under this Order shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Order, and before the Work outlined below begins, Respondents shall notify the EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by the EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to the EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Order is contingent on Respondents' demonstration to the EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in this Order. If the EPA disapproves in writing of any person's technical qualifications, Respondents shall notify the EPA of the identity and qualifications of the replacements within 30 days of the written notice. If the EPA subsequently disapproves of the replacement, the EPA reserves the right to terminate this Order and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI/FS, Respondents shall notify the EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. The EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

30. Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Order and shall submit to the EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. The EPA retains the right to disapprove of the designated Project Coordinator. If the EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify the EPA of that person's name, address, telephone number and qualifications within fourteen (14) days following the EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to the EPA's right to disapprove. Respondents shall notify the EPA fourteen (14) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written

notification. Receipt by Respondents' Project Coordinator of any notice or communication from the EPA relating to this Order shall constitute receipt by Respondents.

31. The EPA has designated Katrina Coltrain (Remedial Project Manager) of the EPA's Superfund Division (Region 6) as its Project Coordinator. The EPA will notify Respondents of a change of its designated Project Coordinator. Except as otherwise provided in this Order, Respondents shall direct all submissions required by this Order to the EPA's Project Coordinator as follows:

Katrina Coltrain
U.S. Environmental Protection Agency, Region 6
Superfund Division (6SF-RL)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733
(214) 665-8134, Facsimile (214) 665-6660
E-Mail Address - coltrain.katrina@epa.gov

32. The EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the NCP. In addition, the EPA's Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Order, and to take any necessary response action when she/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or to the environment. The absence of the EPA's Project Coordinator from the area under study pursuant to this Order shall not be cause for the stoppage or delay of Work.

33. The EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of the EPA, but not to modify the RI/FS Work Plan.

IX. WORK TO BE PERFORMED

34. Activities and Deliverables. Respondents shall conduct activities and submit plans, reports or other deliverables as provided by the attached SOW (including the "Schedule of Deliverables/Meetings"), which is incorporated by reference, for the development of the RI/FS. All such Work shall be conducted in accordance with the provisions of this Order, the SOW, CERCLA, the NCP and EPA guidance, including, but not limited to, the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Usability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, and guidances referenced in the SOW, as may be amended or modified by the EPA. The general activities that Respondents are required to perform are identified below, followed by a list of plans, reports and other deliverables. The tasks that Respondents must perform are described more fully in the SOW and guidances. The activities, plans, reports and other deliverables identified below shall be developed as provided in the RI/FS Work Plan and Sampling and Analysis Plan, and shall be submitted to the EPA as provided. All Work performed under this Order shall be in accordance with the schedules herein or established in the SOW, and in full accordance with the standards, specifications, and other requirements of the RI/FS Work Plan and Sampling and Analysis Plan, as initially approved or modified by the EPA, and as may be amended or modified by the EPA from time to time. In accordance with the schedules established in this Order or in the SOW, Respondents shall submit

to the EPA, TCEQ, and the Federal and State Natural Resource Trustees copies of all plans/reports and other deliverables required under this Order, the SOW and the RI/FS Work Plan. All plans, reports and other deliverables will be reviewed and approved by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions). Upon the EPA's request, Respondents shall also provide copies of plans, reports or other deliverables to Community Advisory Groups, Technical Assistance Grant recipients, or any other entities as directed by the EPA. Upon request by the EPA, Respondents shall submit in electronic format all portions of any plan, report or other deliverable. Respondents are required to submit pursuant to provisions of this Order.

- a. Scoping - The EPA will determine the Site-specific objectives of the RI/FS and devise a general management approach for the Site, as stated in the attached SOW. Respondents shall conduct the remainder of scoping activities as described in the attached SOW and referenced guidances.

The known and suspected sources of contamination at the Site include the buried impoundments. The types of Contaminants of Potential Concern (COPCs) that shall be investigated include organics and inorganics. The possibly affected media to be investigated include soils, ground water, surface water, air, and sediments. The known and potential routes of migration that shall be considered during the RI/FS include, among others, overland flow (identified in the Hazard Ranking System Documentation Record), subsurface migration of COPCs from the buried impoundments to surface/subsurface soils and ground water and the possible migration to the sediments and surface waters of the Surface Water Drainage Ditch (SWDD). Another potential route of migration would be the migration of COPCs from the sediments and surface waters of the SWDD adjacent to the buried impoundments to the sediments and surface waters of the SWDD located to the north of Up River Road and its immediate sediment depositional area in a wetland area known as Tule Lake.

At the conclusion of the project planning phase, Respondents shall provide the EPA with the following plans, reports and other deliverables as specified in the SOW:

- (1) Draft and Final RI/FS Work Plan - Within forty-five (45) days after the Effective Date of this Order, Respondents shall submit to the EPA a Draft RI/FS Work Plan (WP) for review and approval. A Final RI/FS WP is due within fourteen (14) days of the receipt of the EPA's approval of the Draft RI/FS WP. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final RI/FS Work Plan shall be incorporated into and become enforceable under this Order.

- (2) Draft and Final Sampling and Analysis Plan - Within forty-five (45) days after the Effective Date of this Order, Respondents shall submit to the EPA a Draft Sampling and Analysis Plan (SAP) for review and approval. This Draft SAP shall consist of a Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP), as described in the SOW and guidances, including, without limitation, "Guidance for Quality Assurance Project Plans, EPA QA/G-5" (EPA/240/R-02/009, December 2002 or subsequently issued guidance), and "EPA Requirements for Quality Assurance Project Plans, EPA QA/R-5" (EPA 240/B-01/003, March 2001).

or subsequently issued guidance). A Final SAP is due within fourteen (14) days of the receipt of the EPA's approval of the Draft SAP. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final SAP shall be incorporated into and become enforceable under this Order.

(3) Site Health and Safety Plan - Within forty-five (45) days after the Effective Date of this Order, Respondents shall submit to the EPA a Site Health and Safety Plan for review and comment that ensures the protection of on-site workers and the public during performance of on-site Work under this Order. This plan shall be prepared in accordance with EPA's "Standard Operating Safety Guide" (PUB 9285.1-03, PB 92-963414, June 1992 or subsequently issued guidance). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration regulations found at 29 C.F.R. Part 1910. If the EPA determines that it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by the EPA and shall implement the plan during the performance of the RI/FS.

b. Community Involvement Plan - The EPA will prepare a Community Involvement Plan (CIP), in accordance with the EPA's guidance and the NCP. As requested by the EPA, Respondents shall provide information supporting the EPA's CIP and shall participate in and fund the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by the EPA to explain activities at or concerning the Site. Respondents shall fund, among other things as requested by the EPA and related to community involvement, the preparation of fact sheets, presentations, audio visual equipment, meeting room, and the "public noticing" in local and widely distributed newspapers of public meetings.

c. Site Characterization - Following the EPA's approval or approval with modifications of the RI/FS Work Plan and Sampling and Analysis Plan, Respondents shall implement the provisions of these plans to characterize the Site. Respondents shall complete Site characterization and submit all plans, reports and other deliverables in accordance with the schedules and deadlines established in this Order, the SOW, and for the EPA-approved Final RI/FS Work Plan and Sampling and Analysis Plan.

d. Reuse Assessment - If the EPA, in its sole discretion, determines that a Reuse Assessment is necessary, Respondents will perform the Reuse Assessment in accordance with the SOW, RI/FS Work Plan and applicable guidance. The Reuse Assessment should provide sufficient information to develop realistic assumptions of the reasonably anticipated future uses for the Site. Respondents shall prepare the Reuse Assessment in accordance with EPA guidance, including, but not limited to the guidance entitled, "Reuse Assessments: A Tool To Implement The Superfund Land Use Directive" (OSWER Directive 9355.7-06P, June 4, 2001 or subsequently issued guidance).

e. Baseline Human Health/Ecological Risk Assessments - Respondents will perform the Baseline Human Health Risk Assessment and Ecological Risk

Assessment (Risk Assessments) in accordance with the SOW, RI/FS Work Plan and applicable EPA guidance, including but not limited to: "Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part A)," (RAGS, EPA-540-1-89-002, OSWER Directive 9285.7-01A, December 1989); "Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments), Final, Publication 9285.7-47, December 2001; and "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments" (ERAGS, EPA-540-R-97-006, OSWER Directive 9285.7-25, June 1997); or subsequently issued guidance.

As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft Baseline Human Health Risk Assessment (BHHRA), Draft Screening Level Ecological Risk Assessment, and Draft Baseline Ecological Risk Assessment (BERA), if necessary, for review and approval. A Final BHHRA and BERA are due within fourteen (14) days of the receipt of the EPA's approval of the Draft BHHRA and BERA. A Final SLERA is due as specified in the RI/FS WP. Upon their approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final BHHRA, SLERA, and BERA shall be incorporated into and become enforceable under this Order.

f. Draft and Final Remedial Investigation Report - As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft Remedial Investigation (RI) Report for review and approval consistent with the SOW, Final RI/FS WP, and Final SAP. The Draft RI Report shall also contain the Risk Assessments. A Final RI Report is due within fourteen (14) days of the receipt of the EPA's approval of the Draft RI Report. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final RI Report shall be incorporated into and become enforceable under this Order.

g. Treatability Studies - Respondents shall conduct treatability studies, except where Respondents can demonstrate to the EPA's satisfaction that they are not needed. The major components of the treatability studies are described in the SOW. In accordance with the schedules or deadlines established in this Order, the SOW and/or the EPA-approved RI/FS Work Plan, Respondents shall provide EPA with the following plans, reports, and other deliverables for review and Approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

(1) Draft and Final Identification of Candidate technologies Technical Memorandum - The Draft Candidate Technologies Technical Memorandum (CTTM) shall be submitted as specified in the Final RI/FS WP. As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft CTTM for review and approval consistent with the SOW. A Final CTTM is due within fourteen (14) days of the receipt of the EPA's approval of the Draft CTTM. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final CTTM shall be incorporated into and become enforceable under this Order.

(2) Draft and Final Treatability Study Work Plan - Within forty-five (45) days of the receipt of the EPA's notice that treatability studies are required, Respondents shall submit to the EPA a Draft Treatability Study Work Plan (TS WP) for review and approval consistent with the SOW. A Final TS WP is due within fourteen (14) days of the receipt of the EPA's approval of the Draft TS WP. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final TS WP shall be incorporated into and become enforceable under this Order.

(3) Draft and Final Treatability Study SAP - Within forty-five (45) days of the receipt of the EPA's notice that treatability studies are required, Respondents shall submit to the EPA a Draft Treatability Study SAP for review and approval consistent with the SOW. A Final Treatability Study SAP is due within fourteen (14) days of the receipt of the EPA's approval of the Draft Treatability Study SAP. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final Treatability Study SAP shall be incorporated into and become enforceable under this Order.

(4) Treatability Study Health and Safety Plan - As specified in the Final TSWP, Respondents shall submit to the EPA a Treatability Study Health and Safety Plan for review and comment that ensures the protection of on-site workers and the public (if studies are being conducted on-site) during performance of on-site Work under this Order. This plan shall be prepared in accordance with EPA's "Standard Operating Safety Guide" (PUB 9285.1-03, PB 92-963414, June 1992 or subsequently issued guidance). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration regulations found at 29 C.F.R. Part 1910. If the EPA determines that it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by the EPA and shall implement the plan during the performance of the RI/FS and treatability studies.

(5) Draft and Final Treatability Study Report - As specified in the Final TSWP, Respondents shall submit to the EPA a Draft Treatability Study (TS) Report for review and approval consistent with the SOW. A Final TS Report is due within fourteen (14) days of the receipt of the EPA's approval of the Draft TS Report. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final TS Report shall be incorporated into and become enforceable under this Order.

h. Development and Screening of Alternatives - Respondents shall develop an appropriate range of waste management options that will be evaluated through the development and screening of alternatives, as provided in the SOW and RI/FS Work Plan. In accordance with the schedules or deadlines established in this Order, the SOW and/or the EPA-approved RI/FS Work Plan, Respondents shall provide the EPA with the following deliverables for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

(1) Draft and Final Remedial Action Objectives Memorandum – As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft Remedial Action Objectives (RAO) Memorandum (which includes RAOs for engineering controls as well as for institutional controls) for review and approval consistent with this Order and/or the EPA-approved RI/FS WP. A Final RAO Memorandum is due within fourteen (14) days of the receipt of the EPA's approval of the Draft RAO Memorandum. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final RAO Memorandum shall be incorporated into and become enforceable under this Order.

(2) Draft and Final Alternatives Development and Screening Memorandum - As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft Alternatives Development and Screening Memorandum (ADSM) for review and approval consistent with this Order, the SOW, and/or the EPA-approved RI/FS WP. A Final ADSM is due within fourteen (14) days of the receipt of the EPA's approval of the Draft ADSM. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final ADSM shall be incorporated into and become enforceable under this Order.

i. Detailed Analysis of Alternatives - Respondents shall conduct a detailed analysis of remedial alternatives, as described in the SOW and RI/FS Work Plan. In accordance with the deadlines or schedules established in this Order, the SOW and/or the EPA-approved RI/FS Work Plan, Respondents shall provide the EPA with the following deliverables (which includes a presentation) for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions):

(1) Draft and Final Remedial Alternatives Comparative Analysis Report - As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft Remedial Alternatives Comparative Analysis (RACA) Report for review and approval consistent with this Order, the SOW, and for the EPA-approved RI/FS WP. A Final RACA Report is due within fourteen (14) days of the receipt of the EPA's approval of the Amended Draft RACA Report. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final RACA Report shall be incorporated into and become enforceable under this Order. Within seven (7) days of submitting the Draft RACA Report, Respondents will present to the EPA a summary of the findings of the remedial investigation and remedial action objectives, and present the results of the nine criteria evaluation and comparative analysis, as described in the SOW and this Order.

(2) Draft and Final Nine Criteria Analysis Memorandum - As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft Nine Criteria Analysis Memorandum (NCAM) for review and approval consistent with this Order, the SOW, and/or the EPA-approved RI/FS WP. A Final NCAM is due within fourteen (14) days of the receipt of the EPA's approval of the Amended Draft NCAM. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other

Submissions), the Final NCAM shall be incorporated into and become enforceable under this Order. Within seven (7) days of submitting the Draft NCAM, Respondents will present to the EPA a summary of the findings of the remedial investigation and remedial action objectives, and present the results of the nine criteria evaluation and comparative analysis, as described in the SOW and this Order.

(3) Alternatives Analysis for Institutional Controls and Screening - Respondents shall submit a memorandum on the Institutional Controls identified in the Memorandum on Development and Screening of Alternatives as potential remedial actions. The Alternatives Analysis for Institutional Controls and Screening shall (1) state the objectives (i.e., what will be accomplished) for the Institutional Controls; (2) determine the specific types of Institutional Controls that can be used to meet the remedial action objectives; (3) investigate when the Institutional Controls need to be implemented and/or secured and how long they must be in place; (4) research, discuss and document any agreement with the proper entities (e.g., state, local government entities, local landowners, conservation organizations, Respondents) on exactly who will be responsible for securing, maintaining and enforcing the Institutional Controls. The Alternatives Analysis for Institutional Controls and Screening shall also evaluate the Institutional Controls identified in the Development and Screening of Alternatives Memorandum against the nine evaluation criteria outlined in the NCP (40 C.F.R. 300.430(e)(9)(iii)) for CERCLA cleanups, including but not limited to costs to implement, monitor and/or enforce the Institutional Controls. The Alternatives Analysis for Institutional Controls and Screening shall be submitted as an appendix to the Draft Feasibility Study Report.

(4) Draft and Final Feasibility Study Report - As specified in the Final RI/FS WP, Respondents shall submit to the EPA a Draft Feasibility Study (FS) Report, which reflects the findings in the Risk Assessments, for review and approval consistent with this Order, the SOW, and/or the EPA-approved RI/FS WP. A Final FS Report is due within fourteen (14) days of the receipt of the EPA's approval of the Draft FS Report. Upon its approval by the EPA pursuant to Section X (EPA Approval of Plans and Other Submissions), the Final FS Report shall be incorporated into and become enforceable under this Order.

35. Upon receipt of the Final FS Report, the EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability and effectiveness of any proposed Institutional Controls.

36. Modification of the RI/FS Work Plan

- a. If at anytime during the RI/FS process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the EPA Project Coordinator within seven (7) days of identification. The EPA in its discretion will determine whether the additional

data will be collected by Respondents and whether it will be incorporated into plans, reports and other deliverables.

b. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that the EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan, the EPA shall modify or amend the RI/FS Work Plan in writing accordingly. Respondents shall perform the RI/FS Work Plan as modified or amended.

c. The EPA may determine that in addition to tasks defined in the initially approved RI/FS Work Plan, other additional Work may be necessary to accomplish the objectives of the RI/FS. Respondents agree to perform these response actions in addition to those required by the initially approved RI/FS Work Plan, including any approved modifications, if the EPA determines that such actions are necessary for a complete RI/FS.

d. Respondents shall confirm their willingness to perform the additional Work in writing to EPA within seven (7) days of receipt of the EPA's request. If Respondents object to any modification determined by the EPA to be necessary pursuant to this Paragraph, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or RI/FS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by the EPA in a written modification to the RI/FS Work Plan or written RI/FS Work Plan supplement. The EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit the EPA's authority to require performance of further response actions at the Site.

37. Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of waste material from the Site to an out-of-state waste management facility, provide written notification of such shipment of waste material to the appropriate state environmental official in the receiving facility's state and to EPA's Designated Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the waste material is to be shipped; (2) the type and quantity of the waste material to be shipped; (3) the expected schedule for the shipment of the waste material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the waste material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the RI/FS. Respondents shall provide the information required by Subparagraphs 37(a) and 37(c) as soon as practicable after the award of the contract and before the waste material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain the EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. §9621(d)(3), and 40 C.F.R. §300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence. The EPA's contact for off-site shipment of wastes is Wilkin Shannon (214-665-2282).

38. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of the EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

39. Progress Reports. In addition to the plans, reports and other deliverables set forth in this Order, Respondents shall provide to EPA monthly progress reports by the tenth day of the following month (initially as specified in the Final RI/FS WP). At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Order during that month, (2) include all results of sampling and tests and all other data received by Respondents, (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays. The EPA shall approve the Final Progress Reports.

40. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of waste material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the EPA Project Coordinator or, in the event of his/her unavailability, the OSC or the Regional Duty Officer of the incident or Site conditions. The Regional Duty Officer's (Emergency Planning and Response Branch, EPA Region 6) telephone number is 214-665-6428. The EPA Regional Emergency 24-hour telephone number is 866-372-7745. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and the EPA takes such action instead, Respondents shall reimburse the EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the EPA Project Coordinator, the OSC or Regional Duty Officer at 866-372-7745 and the National Response Center at 800-424-8802. Respondents shall submit a written report to the EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. §9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

41. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Order, in a notice to Respondents the EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, the EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure as specified in this Order, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

42. In the event of approval, approval upon conditions, or modification by the EPA, pursuant to Subparagraphs 41(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by the EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by the EPA. Following the EPA approval or modification of a submission or portion thereof, Respondents shall not thereafter alter or amend such submission or portion thereof unless directed by the EPA. In the event that the EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 41 (c) and the submission had a material defect, the EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

43. Resubmission.

a. Upon receipt of a notice of disapproval, Respondents shall, as specified in this Order and SOW, or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 14-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 44 and 45.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by the EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving the EPA's approval, approval on condition or modification of the following deliverables: Final RI/FS WP and SAP, and the Treatability Study WP and SAP. While awaiting the EPA's approval, approval on condition or modification of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth under this Order.

d. For all remaining deliverables not listed above in subparagraph 43(c), Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting the EPA's approval on the submitted deliverable. The EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

44. If the EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, the EPA may again direct Respondents to correct the deficiencies. The EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by the EPA, subject only to Respondents' right to invoke the procedures set forth in Section XV (Dispute Resolution).

45. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by the EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and the EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by the EPA or superceded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If the EPA's disapproval or modification is not otherwise revoked, substantially modified or superceded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

46. In the event that the EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by the EPA into the final reports.

47. All plans, reports, and other deliverables submitted to the EPA under this Order shall, upon approval or modification by the EPA, be incorporated into and enforceable under this Order. In the event the EPA approves or modifies a portion of a plan, report, or other deliverable submitted to the EPA under this Order, the approved or modified portion shall be incorporated into and enforceable under this Order.

48. Neither failure of the EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by the EPA. Whether or not the EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to the EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

49. Quality Assurance. Respondents shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the SOW, the QAPP and guidances identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans" (QA/R-2, EPA/240/B-01/002, March 2001) or equivalent documentation as determined by the EPA.

50. Sampling.

- a. All results of sampling, tests, modeling or other data (including raw data) generated by Respondents, or on Respondents' behalf, during the period that this Order is effective, shall be submitted to the EPA in the next monthly progress report as described in Paragraph 39 of this Order. The EPA will make available to Respondents validated data generated by the EPA unless it is exempt from disclosure by any federal or state law or regulation.
- b. Respondents shall verbally notify the EPA and the TCEQ at least fifteen (15) days prior to conducting significant field events as described in the SOW, RI/FS WP or SAP. At the EPA's verbal or written request, or the request of the EPA's oversight assistant, Respondents shall allow split or duplicate samples to be taken by the EPA (and its authorized representatives) or the TCEQ of any samples collected in implementing this Order. All split samples of Respondents shall be analyzed by the methods identified in the QAPP.

51. Access to Information.

- a. Respondents shall provide to the EPA and the TCEQ, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to the EPA and the TCEQ; for purposes of investigation, information gathering, or testimony; their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.
- b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to the EPA and the TCEQ under this Order to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. §2.203(b). Documents or information determined to be confidential by the EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to the EPA and the TCEQ, or if the EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents shall segregate

and clearly identify all documents or information submitted under this Order for which Respondents assert business confidentiality claims.

c. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondents assert such a privilege in lieu of providing documents, they shall provide the EPA and the TCEQ with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

d. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydro geologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

52. In entering into this Order, Respondents waive any objections to any data gathered, generated, or evaluated by the EPA, the State or Respondents in the performance or oversight of the Work that has been verified according to the quality assurance/quality control ("QA/QC") procedures required by the Order or any EPA-approved RI/FS WP or SAP. If Respondents object to any other data relating to the RI/FS, Respondents shall submit to the EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to the EPA within fifteen (15) days of the monthly progress report containing the data.

XII. SITE ACCESS AND INSTITUTIONAL CONTROLS

53. If the Site, or any other property where access is needed to implement this Order, is owned or controlled by any of Respondents, such Respondents shall, commencing on the Effective Date of this Order, provide the EPA and TCEQ, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Order.

54. Where any action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within thirty (30) days of the Effective Date of this Order, or as otherwise specified in writing by the EPA Project Coordinator. Respondents shall immediately notify the EPA if after using their best efforts they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements, the EPA may either (i) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as the EPA deems appropriate; (ii) perform those tasks or activities with the EPA contractors; or (iii) terminate the Order. Respondents shall reimburse the EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs). If the EPA performs those tasks or activities with the EPA's contractors and does not terminate

the Order, Respondents shall perform all other tasks or activities not requiring access to that property, and shall reimburse the EPA for all costs incurred in performing such tasks or activities. Respondents shall integrate the results of any such tasks or activities undertaken by the EPA into its plans, reports and other deliverables.

55. Notwithstanding any provision of this Order, the EPA and TCEQ retain all of their access authorities and rights, as well as all rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. COMPLIANCE WITH OTHER LAWS

56. Respondents shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. §9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Order is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

57. During the performance of this Order and for a minimum of ten (10) years after commencement of construction of any remedial action, each Respondent shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until ten (10) years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents, records, and other information of whatever kind, nature or description relating to performance of the Work.

58. At the conclusion of this document retention period, Respondents shall notify the EPA at least ninety (90) days prior to the destruction of any such documents, records or other information, and, upon request by the EPA, Respondents shall deliver any such documents, records, or other information to the EPA. Respondents may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide the EPA with the following: 1) the title of the document, record, or other information; 2) the date of the document, record, or other information; 3) the name and title of the author of the document, record, or other information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or other information; and 6) the privilege asserted by Respondents. However, no documents, records or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

59. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to

its potential liability regarding the Site since notification of potential liability by the EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all of the EPA's requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. §6927.

XV. DISPUTE RESOLUTION

60. Unless otherwise expressly provided for in this Order, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Order. The Parties shall attempt to resolve any disagreements concerning this Order expeditiously and informally.

61. If Respondents object to any EPA action taken pursuant to this Order, including billings for Future Response Costs, they shall notify the EPA in writing of their objection(s) within fourteen (14) days of such action, unless the objection(s) has/have been resolved informally. The EPA and Respondents shall have fourteen (14) days from the EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of the EPA. Such extension may be granted verbally but must be confirmed in writing.

62. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Order. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the level of Associate Director or higher will issue a written decision. The EPA's decision shall be incorporated into and become an enforceable part of this Order. Respondents' obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with the EPA's decision, whichever occurs, and regardless of whether Respondents agree with the decision.

XVI. STIPULATED PENALTIES

63. Respondents shall be liable to the EPA for stipulated penalties in the amounts set forth in Paragraphs 64 and 65 for failure to comply with any of the requirements of this Order specified below unless excused under Section XVII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Order or any activities contemplated under any RI/FS WP or other plan approved under this Order identified below, in accordance with all applicable requirements of law, this Order, the SOW, and any plans or other documents approved by the EPA pursuant to this Order and within the specified time schedules established by and approved under this Order.

64. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per day for any noncompliance identified in Subparagraph 64(b):

**Administrative Order on Consent
Remedial Investigation and Feasibility Study**

**Brine Service Company, Inc. Superfund Site
September 2009**

Penalty Per Violation Per Day

\$ 1000.00

\$ 1500.00

\$ 5000.00

Period of Noncompliance

1st through 14th day

15th through 30th day

31st day and beyond

b. Compliance Milestones

- Notifications regarding the Project Coordinator,
- Notifications regarding the Quality Assurance Official,
- An original and any revised work plan,
- An original and any revised sampling and analysis plan,
- An original and any revised remedial investigation report,
- An original and any revised treatability testing work plan,
- An original and any revised treatability study sampling and analysis plan,
- An original and any revised feasibility study report, and
- Failure to make timely payments.

65. Stipulated Penalty Amounts - Reports.

a. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other written documents pursuant to Subparagraph 65(b).

Penalty Per Violation Per Day

\$ 400.00

\$ 500.00

\$ 1000.00

\$ 1200.00

Period of Noncompliance

1st through 7th day

8th through 14th day

15th through 30th day

31st day and beyond

b. Compliance Milestones

- Technical memorandum on modeling of site characteristics;
- Preliminary site characterization summary;
- Summary of RI data;
- Identification of candidate technologies memorandum;
- Treatability testing statement of work;
- Treatability study evaluation report;
- Memorandum on Remedial Action Objectives;
- Memorandum on development and preliminary screening of alternatives, assembled alternatives screening results, and final screening; and
- Report on comparative analysis of alternatives.

66. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 84 of Section XX (Reservation of Rights by EPA), Respondents shall be liable for a stipulated penalty in the amount of \$100,000.

67. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after the EPA's receipt of such submission until the date that the EPA notifies Respondents of any deficiency; and (2) with respect to a decision by the EPA Management Official designated in Paragraph 62 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

68. Following the EPA's determination that Respondents have failed to comply with a requirement of this Order, the EPA may give Respondents written notification of the same and describe the noncompliance. The EPA may send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether the EPA has notified Respondents of a violation.

69. All penalties accruing under this Section shall be due and payable to the EPA within thirty (30) days of Respondents' receipt from the EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to the EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

The payment shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number 06JY, the EPA Docket Number 06-09-04, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s) shall be sent to EPA as provided in Paragraph 31, and to the EPA's Project Coordinator (Remedial Project Manager) identified in this Order and to:

Lydia Johnson, Enforcement Assessment Section (6SF-TE)
U.S. Environmental Protection Agency, Region 6
Technical and Enforcement Branch
1445 Ross Avenue
Dallas, Texas 75202-2733

70. The payment of penalties shall not alter in any way Respondents' obligation to complete performance of the Work required under this Order.

71. Penalties shall continue to accrue as provided in Paragraph 67 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of the EPA's decision.

72. If Respondents fail to pay stipulated penalties when due, the EPA may institute proceedings to collect the penalties, as well as interest. Respondents shall pay interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 69.

73. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting the ability of the EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Order or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(1) of CERCLA, 42 U.S.C. §9622(1), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Provided, however, that the EPA shall not seek civil penalties pursuant to Section 122(1) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Order or in the event that the EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by EPA) Paragraph 84. Notwithstanding any other provision of this Section, the EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Order.

XVII. FORCE MAJEURE

74. Respondents agree to perform all requirements of this Order within the time limits established under this Order, unless the performance is delayed by a *force majeure*. For purposes of this Order, *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Order despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

75. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a *force majeure* event, Respondents shall notify the EPA orally within five (5) days of when Respondents first knew that the event might cause a delay. Within five (5) days thereafter, Respondents shall provide to the EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

76. If the EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Order that are affected by the *force majeure* event will be extended by the EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation.

If the EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, the EPA will notify Respondents in writing of its decision. If the EPA agrees that the delay is attributable to a *force majeure* event, the EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

77. Payment of Past Response Costs.

The EPA agrees not to seek past response costs in this Order. However, EPA reserves the right to seek recovery of past response costs under Section 107(a) of CERCLA, 42 U. S. C. 9607(a). From date of inception through December 31, 2008, EPA has incurred \$491,114.44 in costs at the Site. Such past response costs include all costs, including, but not limited to, direct and indirect costs; that the United States, including, but not limited to, direct and indirect costs, that the United States, including, but not limited to, its employees, agents, contractors, consultants, and other authorized representatives, incurred regarding the Site that are not covered as Future Response Costs as defined in this Order.

78. Payments of Future Response Costs.

a. Respondents shall pay the EPA all Future Response Costs not inconsistent with the NCP. The EPA has estimated that the amount of Future Response Costs that will be expended at this Site is \$500,000 over two (2) years. This amount includes \$50,000 for the TAG recipient.

b. Based on the above estimate, the Respondents shall forward \$150,000 within thirty (30) days of the Effective Date of this Order to be deposited in the Brine Service Company, Inc. Special Account. The Special Account will be used in accordance with the Order for ongoing response actions and the TAG recipient. On an annual basis, the EPA will submit to Respondents a summary of response costs debited from the Brine Service Company, Inc. Special Account. The summary shall be in the form of an Integrated Financial Management System (IFMS) Itemized Cost Summary Report (SCORPIOS) or its equivalent ("Cost Documentation"). If the Future Response Costs exceed \$150,000, EPA will issue bills for the remaining balance of the estimated amount as EPA incurs these costs, along with Cost Documentation. Respondents will reimburse EPA for Future Response Costs from \$150,001 to \$500,000 within thirty (30) days of the date Respondents receive EPA's bills and Cost Documentation. If Future Response Costs exceed \$500,000, EPA shall provide Respondents with a new estimated amount and documentation of the basis for the new estimated amount. EPA will issue bills and Cost Documentation for costs in excess of \$500,000 to Respondents as EPA incurs such costs. Payment shall be made by EFT, in accordance with EFT instructions provided by EPA. Respondents shall make all payments required under this Order, except as otherwise provided in Paragraph 80 of this Order.

c. At the time of payment, Respondents shall send notice and a copy of the EFT transmittal document to:

Lydia Johnson, Enforcement Assessment Section (6SF-TE)
U.S. Environmental Protection Agency, Region 6
Technical and Enforcement Branch
1445 Ross Avenue
Dallas, Texas 75202-2733

Katrina Coltrain (Remedial Project Manager)
U.S. Environmental Protection Agency, Region 6
Superfund Division (6SF-RL)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733
(214) 665-8143 Facsimile (214) 665-6660
E-Mail Address - coltrain.katrina@epa.gov

d. The EPA shall remit and return to Respondents the remaining fund balance of the Future Response Costs in the Brine Service Company, Inc. Special Account at the end of the project.

79. If Respondents do not pay the initial payment for the Future Response Costs within thirty (30) days of the Effective Date of this Order, or do not pay the additional Future Response Costs within thirty (30) days of Respondents' receipt of bill, Respondents' shall pay interest on the unpaid balance of Future Response Costs, compounded annually every October 1st of the calendar year. The interest on unpaid Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue on the date of the bill until the date of full payment. If the EPA receives a partial payment, interest shall accrue on any unpaid balance. Payments of interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 78.

80. Respondents may contest payment of any Future Response Costs under Paragraph 78 incurred by EPA in excess of \$150,000 if Respondents determine that the EPA has made an accounting error or if they believe the EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within thirty (30) days of the Effective Date of this Order and/or thirty (30) days of receipt of the SCORPIOS report or the bill. Such written objection shall be sent to the EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall within the thirty (30) day period pay all uncontested Future Response Costs to the EPA in the manner described in Paragraph 78. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Texas and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If the EPA prevails in the dispute, within five (5) days of the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to the EPA in the manner described in Paragraph 78. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to the EPA in the manner described in Paragraph 78. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph, in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the

exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse the EPA for its Future Response Costs.

XIX. COVENANT NOT TO SUE BY EPA

81. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Order, and except as otherwise specifically provided in this Order, the EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§9606 and 9607(a), for the Work performed under this Order and for recovery of Future Response Costs. This covenant to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Order, including, but not limited to, payment of Future Response Costs pursuant to Section XVIII. This covenant not to sue extends only to Respondents and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

82. Except as specifically provided in this Order, nothing herein shall limit the power and authority of the EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent the EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

83. The covenant not to sue set forth in Section XIX (Covenant Not to Sue by EPA) above does not pertain to any matters other than those expressly identified therein. The EPA reserves, and this Order is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Order;
- b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of waste materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

84. Work Takeover. In the event the EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, the EPA may assume the performance of all or any portion of the Work as the EPA determines necessary. Respondents may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute the EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the EPA in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that

Respondents shall pay pursuant to Section XVIII (Payment of Response Costs). Notwithstanding any other provision of this Order, the EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENTS

85. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Order, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. §9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of the Work or arising out of the response actions for which the Past Response Costs or Future Response Costs have or will be incurred, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. §1491, the Equal Access to Justice Act, 28 U.S.C. §2412, as amended, or at common law; or
- c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§9607 and 9613, relating to the Work or payment of Past Response Costs or Future Response Costs.

86. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 83 (b), (c), and (e) - (g), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

87. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. §9611, or 40 C.F.R. §300.700(d).

XXII. OTHER CLAIMS

88. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents.

89. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§9606 and 9607.

90. No action or decision by the EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. §9613(h).

XXIII. CONTRIBUTION PROTECTION

91. The Parties agree that Respondents are entitled, as of the Effective Date of this Order, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§9613(f)(2) and 9622(h)(4), for "matters addressed" in this Order; The "matters addressed" in this Order are the Work and Future Response Costs. Except as provided in Section XXI (Covenant Not to Sue by Respondents), nothing in this Order precludes the United States or Respondents from asserting any claims, causes of action, or demands against any person not parties to this Order for indemnification, contribution, or cost recovery.

XXIV. INDEMNIFICATION

92. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Order. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Order. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Order. Neither Respondents nor any such contractor shall be considered an agent of the United States.

93. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

94. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between anyone or more of Respondents and any person for performance of Work on or relating to the Site. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between anyone or more of Respondents and any person for performance of Work on or relating to the Site.

XXV. INSURANCE

95. At least fourteen (14) days prior to commencing any On-Site Work under this Order, Respondents shall secure, and shall maintain for the duration of this Order, comprehensive general liability insurance and automobile insurance with limits of five (5) million dollars (\$5,000,000), combined single limit, naming the EPA as an additional insured. Within the same period, Respondents shall provide the EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall submit such certificates and copies of policies each year on the anniversary of the Effective Date of this Order. In addition, for the duration of the Order, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Order. If

Respondents demonstrate by evidence satisfactory to the EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

96. Within thirty (30) days of the Effective Date of this Order, Respondents shall establish and maintain financial security for the benefit of the EPA in the amount of \$1,500,000 in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of the EPA, issued by financial institution(s) acceptable in all respects to the EPA equaling the total estimated cost of the Work;
- c. a trust fund administered by a trustee acceptable in all respects to the EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to the EPA, which ensures the payment and/or performance of the Work;
- e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Respondents, or by one or more unrelated corporations that have a substantial business relationship with at least one of Respondents; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or
- f. a corporate guarantee to perform the Work by one or more of Respondents, including a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

97. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to the EPA, determined in the EPA's sole discretion. In the event that the EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument[s] evidencing such assurances) are inadequate, Respondents shall, within thirty (30) days of receipt of notice of the EPA's determination, obtain and present to the EPA for approval one of the other forms of financial assurance listed in Paragraph 96 above. In addition, if at any time the EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondents shall obtain and present to the EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Order.

98. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraphs 96(e) or 96(f) of this Order, Respondents shall (i) demonstrate to the EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii)

resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date of this Order, to the EPA. For the purposes of this Order, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of \$1,500,000 for the Work at the Site shall be used in relevant financial test calculations.

99. If, after the Effective Date of this Order, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 96 of this Section, Respondents may, on any anniversary date of the Effective Date of this Order, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to the EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from the EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondents may reduce the amount of security in accordance with the EPA's written decision resolving the dispute.

100. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by the EPA, provided that the EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. INTEGRATION/APPENDICES

101. This Order and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc., that will be developed pursuant to this Order and become incorporated into and enforceable under this Order constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Order. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Order. The following appendices are attached to and incorporated into this Order:

- a. Appendix A (Draft Statement of Work; Remedial Investigation and Feasibility Study; Brine Service Company, Inc. Superfund Site) is the Draft RI/FS SOW.
- b. Appendix B (Site Map) is a general map of the Site.

XXVIII. ADMINISTRATIVE RECORD

102. The EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to the EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of the EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of the EPA, Respondents shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Respondents and state, local or other federal authorities concerning selection of the response action. At the EPA's discretion, Respondents shall establish

a community information repository at or near the Site, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

103. This Order shall be effective the day that the Order is signed by the Regional Administrator or his/her delegatee and the Respondents.

104. This Order may be amended by mutual agreement of the EPA and Respondents. Amendments shall be in writing and shall be effective when signed by the EPA. The EPA's Project Coordinator does not have the authority to sign amendments to the Order.

105. No informal advice, guidance, suggestion, or comment by the EPA's Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Order, or to comply with all requirements of this Order, unless it is formally modified.

XXX. NOTICE OF COMPLETION OF WORK

106. When the EPA determines that all Work has been fully performed in accordance with this Order; with the exception of any continuing obligations required by this Order; including but not limited to any additional work; payment of past and future response costs; payment of oversight costs; and payment of any stipulated penalties demanded by the EPA; the EPA will provide written notice to Respondents. If the EPA determines that any such Work has not been completed in accordance with this Order, the EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI/FS WP if appropriate in order to correct such deficiencies, in accordance with Paragraph 36 (Modification of the Work Plan). Failure by Respondents to implement the approved modified RI/FS WP shall be a violation of this Order.

Administrative Order on Consent
Remedial Investigation and Feasibility Study

Brine Service Company, Inc. Superfund Site

~~August 2009~~

September 2009

PP with permission
of LSK 9/14/09

**ADMINISTRATIVE ORDER ON CONSENT FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY
U.S. EPA Region 6 Docket No. CERLA 06-09-04**

Agreed this 11th day of Sept., 2009.

For Respondent Anadarko E & P Company, L.P

By: 

Title: Chris Boyce, Remediation Manager

Administrative Order on Consent
Remedial Investigation and Feasibility Study

Brine Service Company, Inc. Superfund Site

~~August 2009~~

September 2009

RP with perm.

for JMcQ 9/14/09

ADMINISTRATIVE ORDER ON CONSENT FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY
U.S. EPA Region 6 Docket No. CERCLA 06-09-04

Agreed this 11 day of Sep., 2009.

For Respondent El Paso Merchant Energy-Petroleum Company

By: Robert W. Baker
Robert W. Baker

Title: Executive Vice President and General Counsel

Administrative Order on Consent
Remedial Investigation and Feasibility Study

Brine Service Company, Inc. Superfund Site

ADMINISTRATIVE ORDER ON CONSENT FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY
U.S. EPA Region 6 Docket No. CERCLA 06-09-04

~~August 2009~~
September 2009
AP with permission
of GOW 9/14/09

Agreed this 4th day of Sept., 2009.

For Respondent Hess Corporation

By: [Signature]

Title: Associate General Counsel

Administrative Order on Consent
Remedial Investigation and Feasibility Study

Brine Service Company, Inc. Superfund Site
September 2009

**ADMINISTRATIVE ORDER ON CONSENT FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY
U.S. EPA Region 6 Docket No. CERCLA 06-09-04**

Agreed this 18 day of Sept, 2009.

For Respondent: ConocoPhillips Company

By: _____

Title: _____

[Signature]
MANAGER - RMI

Administrative Order on Consent
Remedial Investigation and Feasibility Study

Brine Service Company, Inc. Superfund Site
September 2009

**ADMINISTRATIVE ORDER ON CONSENT FOR
REMEDIAL INVESTIGATION/FEASABILITY STUDY
U.S. EPA Region 6 Docket No. CERCLA 06-09-04**

Agreed this 17th day of Sept, 2009.

For Respondent SUNOCO, INC. (RBM)

By: Kevin Robles

Title: VP REFINING EXCELLENCE

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ADMINISTRATIVE ORDER ON CONSENT FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY
U.S. EPA Region 6 Docket No. CERCLA 06-09-04

Agreed this 21st day of September, 2009.

For Respondent: Texaco Inc.

By: Frank G. Soler

Frank G. Soler, Vice President and Secretary

**ADMINISTRATIVE ORDER ON CONSENT FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY
U.S. EPA Region 6 Docket No. CERCLA 06-09-04**

It is so ORDERED AND AGREED this 21st day of October, 2009.

BY:



DATE:

10/21/09

Samuel Coleman, P.E.

Director

Superfund Division

U.S. Environmental Protection Agency, Region 6